

Test Valley Borough Council

New Forest International Nature Conservation Designations: Recreational Mitigation Framework Supplementary Planning Document

CONSULTATION
DRAFT
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Section 180 (5) (d) Planning Act (2008) removed the compulsory requirement for a Sustainability Appraisal for a Supplementary Planning Document (SPD). It is not considered that this SPD would have a significant social, environmental or economic effect, therefore this document has not been subject to assessment under The Environmental Assessment of Plans and Programmes Regulations 2004 (as amended).

Commenting on this Document

This draft Supplementary Planning Document has been published for consultation from Friday 12 November to 12 noon on Friday 10 December 2021. Only representations made within this period will be taken into account.

This document is available on the Council's website at:

<https://testvalley.gov.uk/planning-and-building/planningpolicy/supplementary-planning-documents>

If you would like to comment on this document, please send your views to the address or email address below. Should you have any questions, please contact the Planning Policy and Economic Development Service.

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<https://testvalley.gov.uk/aboutyourcouncil/accesstoinformation>



1. Introduction

- 1.1** This Supplementary Planning Document (SPD) has been prepared by Test Valley Borough Council as part of its planning policy framework. It supplements the policies of the Test Valley Revised Local Plan 2011-2029 (referred to as the Local Plan).
- 1.2** The purpose of this SPD is to provide an updated framework for mitigation in relation to recreational impacts on the New Forest international nature conservation designations arising from certain new developments. It does not seek to consider mitigation for other potential impacts on these and other internationally designated nature conservation sites.
- 1.3** This SPD has been prepared in accordance with the relevant legislation and is a material consideration in the determination of relevant planning applications. Therefore it should be taken into account during the preparation of relevant proposals.

2. Legislative and Policy Context

Legal Context

- 2.1** The Conservation of Habitats and Species Regulations 2017 (as amended) (referred to as the Habitats Regulations) include provisions that seek to ensure that plans and projects (including applications for planning permission) are not approved where they could harm the integrity of certain designated sites, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). This process is known as a Habitats Regulations Assessment¹.
- 2.2** There are a number of steps to the Habitats Regulations Assessment. There would be an initial screening stage where there is consideration as to whether a proposal would be likely to result in significant effects (alone or in-combination).
- 2.3** Where such effects cannot be ruled out, an Appropriate Assessment would be required. At this stage, it is possible to account for any measures that will be secured to mitigate² likely significant effects. Approval can only be issued where it has been ascertained that there would be no adverse effects on the integrity of such designations, either alone, or in combination with other plans and projects³.

¹ Guidance advises that Ramsar sites should be considered through the same process.

² This includes measures that avoid or reduce adverse effects but does not include compensation measures.

³ Unless, in exceptional circumstances, there are imperative reasons of overriding public interest.

2.4 The Habitats Regulations establish that the local planning authority is the competent authority responsible for undertaking the relevant screening stage and, where relevant, the Appropriate Assessment, prior to issuing any planning permissions it determines. There is a statutory requirement for the competent authority to consult Natural England in relation to the Appropriate Assessment prior to a decision being made.

Policy Context

2.5 The Council's Local Plan⁴ was adopted on 26 January 2016. A review of the Local Plan was undertaken in January 2021, in accordance with Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). The review concluded that the spatial strategy remains sound and plan policies remain up to date and continue to provide a robust basis for decision making in the determination of planning applications.

2.6 There are also a number of 'made' Neighbourhood Development Plans in place within Test Valley.⁵

2.7 Policy E5 of the adopted Local Plan establishes that development likely to result in a significant effect on certain designations would need to satisfy the Habitat Regulations.

2.8 Through the preparation of the Local Plan, it was recognised that additional development that could generate recreational activity has the potential of adverse effects on the New Forest international nature conservation designations. Mitigation would be required where such effects are likely. An interim mitigation framework was approved in 2014, this SPD replaced that framework.

2.9 The National Planning Policy Framework (NPPF)⁶ is a material consideration in the determination of planning applications. The NPPF includes a presumption in favour of sustainable development (paragraph 11). It is stated that this presumption does not apply where a plan or project is likely to have a significant effect on habitats sites (includes Special Protection Areas and Special Areas of Conservation), unless an Appropriate Assessment has concluded that there will be no adverse effect on the integrity of such sites.

2.10 The national Planning Practice Guidance (PPG) sets out additional information on Habitats Regulations Assessments, including Appropriate Assessments⁷.

⁴ Available: <https://testvalley.gov.uk/planning-and-building/planningpolicy/local-development-framework/dpd>

⁵ For more detail see: <https://testvalley.gov.uk/planning-and-building/planningpolicy/neighbourhood-planning>

⁶ Available: <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁷ Available: <https://www.gov.uk/guidance/appropriate-assessment>

3. New Forest International Nature Conservation Designations

- 3.1** The New Forest is located to the south west of Test Valley. In addition to areas being designated as a National Park, it includes a number of rare habitats and is home to rare species. As such, parts of the New Forest are designated as a Special Area of Conservation (SAC), a Special Protection Area (SPA), and a Ramsar site (collectively referred to as international nature conservation designations).⁸
- 3.2** The New Forest attracts significant numbers of visits, including those living in the local area, as well as tourists. Working in partnership with six authorities, Forestry England and Natural England, a study was commissioned to better understand the recreation use of the New Forest, alongside information on the impact of this on the New Forest international nature conservation designations. The resultant reports⁹ were published in 2020 and 2021. This built on previous work considering these matters and was prepared following a substantial amount of survey work over a 12 month period.
- 3.3** The reports re-affirmed a range of potential impacts from projected increases in visitors to the New Forest, including those arising from planned new development. High level recommendations were provided on potential ways to avoid and mitigate these impacts – this includes a recommendation that a strategic, proportionate and co-ordinated approach to mitigation is developed, which will require partnership working across a range of local authorities and stakeholders.
- 3.5** The supporting text to Local Plan policy E5 refers to work being underway to prepare a long term approach to mitigation for recreational pressures on the New Forest international nature conservation designations. The updated evidence will support the continuation of this work, which will seek to establish a co-ordinated approach for the New Forest that incorporates a suite of mitigation measures.
- 3.5** The Council is committed to delivering a co-ordinated and comprehensive approach to mitigation for the New Forest international nature conservation designations. This includes both through the delivery of Suitable Alternative Natural Greenspace (SANG) as well as supporting on-site mitigation measures.



⁸ While there is some overlap between the extent of the National Park, Special Area of Conservation, Special Protection Area, and Ramsar site, the boundaries are different.

⁹ Available: <https://testvalley.gov.uk/planning-and-building/planningpolicy/evidence-base/evidence-base-environment>

4. Relevant Development Types and Locations

- 4.1** The research undertaken, as set out in the 2020 and 2021 reports¹⁰, has informed the understanding of the location and types of development that would need to provide mitigation in relation to recreational impacts on the New Forest international nature conservation designations.
- 4.2** Certain proposals involving net increases in the number of residential units of accommodation are likely to contribute to in-combination significant effects on the New Forest international nature conservation designations. This includes dwelling houses¹¹ and the use of land for permanent residential use, for example the siting of Park Homes and permanent accommodation for gypsies and travellers¹².
- 4.3** There will be case by case consideration of other residential accommodation and similar types of development to assess if they are likely to result in a significant effect that may require the provision of appropriate mitigation in relation to recreational disturbance. This will include proposals within Use Class C2 (residential institutions) and tourism accommodation (including holiday lets). A key consideration in undertaking such an assessment will be the likelihood that the proposed development would generate additional recreational visits to the New Forest international nature conservation designations.

¹⁰ Available: <https://testvalley.gov.uk/planning-and-building/planning-policy/evidence-base/evidence-base-environment>

¹¹ This includes through new build and conversion.

¹² Temporary / transit pitches will be assessed on a case by case basis.

- 4.4** Appendix 1 indicates the area within the Borough where net increases in residential accommodation has the potential of an in-combination effect on the New Forest international nature conservation designations. For the zone within 13.8km of the New Forest international nature conservation designations, mitigation is likely to be required from net increases in residential accommodation unless an applicant can demonstrate that the scheme would not lead to a likely significant effect.
- 4.5** Some proposals for net increases in residential accommodation outside the 13.8km zone may also have a likely significant effect in-combination. Such schemes would be considered on a case by case basis. Where relevant, this SPD would apply to these schemes.
- 4.6** Based on the latest evidence, in conjunction with the advice of Natural England, applications involving net increases in residential accommodation between 13.8km and 15km of the New Forest international nature conservation designations that exceed the relevant Environmental Impact Assessment thresholds¹³ would need to be screened to review whether they may contribute to a likely significant effect. This additional 13.8km to 15km zone is also indicated in Appendix 1.
- 4.7** There may be occasions where proposals are likely to have a significant effect on the New Forest international nature conservation designations on their own (i.e. alone). In these cases, a bespoke mitigation package may be required, to be agreed with Natural England and the Council.

¹³ An overview of the Environmental Impact Assessment screening thresholds is available through the Planning Practice Guidance at: <https://www.gov.uk/guidance/environmental-impact-assessment#Screening-Schedule-2-projects>. For residential schemes, the current relevant thresholds are developments including more than 150 dwellings, or with the overall area of the development exceeding 5 hectares.

5. Options for Mitigation

Overview of Options

- 5.1** Where it is identified that a proposal is likely to result in a significant effect on the New Forest designations as a result of recreational impacts (either alone or in combination), mitigation would need to be provided to ensure there would be no adverse impacts on the integrity of any of the designated sites. As such, one of the below options would need to be delivered.
- a) Develop a bespoke mitigation package;**
 - b) Provide Suitable Alternative Natural Greenspace (SANG) to be designed to divert visitors from the New Forest international nature conservation designations; or**
 - c) Provide a contribution of £1,540 per unit of additional residential accommodation towards off-site mitigation measures.**
- 5.2** The Council and Natural England would need to agree both the proposed approach and specific mitigation measures. The secured mitigation could include measures within and / or outside the designation. The Council's preference is for any financial contribution to be used to aid in delivering SANG and other off-site measures in the first instance. In addition to mitigation measures, a contribution towards monitoring measures would be required (payable on occupation); this has been factored into the figure provided for option c).

Suitable Alternative Natural Greenspace Provision

- 5.3** Suitable Alternative Natural Greenspace (SANG) would need to be designed to be appropriate in terms of its quantity and quality, and implemented in perpetuity, in order to divert visitors from the New Forest international nature conservation designations. This option is unlikely to be appropriate for smaller sites given the scale of provision they would be likely to generate.
- 5.4** In broad terms, SANG should provide natural or semi-natural spaces. They should provide attractive walking routes and generally have unrestricted access (including areas for dogs to be off leads). Details would need to be submitted to demonstrate satisfactory design and delivery of the SANG. Additionally, a detailed Management Plan will need to be submitted setting out arrangements for the ongoing management and monitoring in-perpetuity¹⁴ of the SANG, including how this would be funded. The design, and management and monitoring arrangements would need agreement with Natural England and the Council, and be secured, via a completed legal agreement, prior to the determination of the application.
- 5.5** Regarding quantity, a minimum of 8 hectares (ha) per 1,000 population would be sought. This figure relates to the net area of usable space and is additional to other public open space requirements¹⁵.
- 5.6** The provision of SANG on site or in close proximity to the site would be the preferred mitigation option for proposals providing in the order of 100+ units of residential accommodation.

¹⁴ *In perpetuity is taken to be 80+ years.*

¹⁵ *See policy LHW1 of the adopted Local Plan.*

Strategic Mitigation Package

- 5.7** The Council has delivered, or contributed to the delivery, of mitigation schemes, including the provision of a SANG at Mill Lane in Sherfield English¹⁶ and working with Eastleigh Borough Council to enable the future delivery of SANG at Home Wood, near North Stoneham. We continue to explore opportunities as they arise, including the purchase of sites and through working with other organisations.
- 5.8** As reflected in section 3, the long term approach to ensuring a comprehensive and co-ordinated approach to mitigation for recreational pressures on the New Forest international nature conservation designations is underway with partners and will also be progressed through the preparation of the next Local Plan.
- 5.9** Through a strategic mitigation package, contributions will be sought from proposals where they are unable to provide their own mitigation. This relates to option c) within the mitigation options. Contributions would be pooled to fund projects that have the capacity to reduce disturbance of the habitats and species for which the New Forest is designated.

¹⁶ For more information see: <https://testvalley.gov.uk/communityandleisure/parksandgreenspaces/sherfield-english>



- 5.10** This package of measures¹⁷ could include:
- **Providing SANG;**
 - **Enhancement of walking routes and rights of way;**
 - **Access management measures which could include improved visitor facilities at robust sites that serve Test Valley residents; and**
 - **Education and / or awareness raising including through rangers, better information and interpretation, promotion of routes in robust locations, and educational campaigns.**
- 5.11** The contributions will be pooled to enable delivery of identified avoidance and mitigation projects and the completion of monitoring work. To ensure the mitigation package is responsive, including to changing opportunities, the package of specific measures will be maintained separately to enable it to be kept under review.
- 5.12** Financial contributions will be indexed (i.e. index-linked to inflation, using the Retail Price Index) to ensure that they retain their original 'real value'. Where relevant, the base date and appropriate index to be applied will be set out in the legal agreement.

Securing Mitigation Measures through Planning Applications and Timing of Delivery

- 5.13** The approach to mitigation would need to be satisfactorily secured prior to the grant of planning permission. The mechanism would need to be agreed with the Council.

¹⁷ Some of these measures align with measures identified for managing recreation across the New Forest, as described at: <https://www.newforestnpa.gov.uk/conservation/managing-recreation/managing-recreation/how-we-are-managing-recreation/>

- 5.14** Section 106 legal agreements would be the required method of securing financial contributions, along with the delivery and in perpetuity availability of any SANG provided.
- 5.15** Mitigation measures would need to be in place prior to occupation of any of the new accommodation. On this basis, any financial contributions to facilitate the delivery of mitigation would be sought upon commencement of the development. There may be some scope for phasing delivery of contribution towards mitigation for larger sites; this would be considered on a case by case basis.
- 5.16** Any SANG provisions should be provided so as to be available in time for the first occupation of the site. There may be some scope for phasing of mitigation in line with occupation rates for larger sites, this would be considered on a case by case basis.
- 5.17** As mitigation measures need to be secured in perpetuity¹⁸ (as required by the legislation), not all of the contribution will be spent in the short term. Therefore, clawback provisions for financial contributions in the legal agreement towards such mitigation measures will not be appropriate.
- 5.19** The Habitats Regulations¹⁹ require that any such proposal, which is likely to have a significant effect on a relevant designated site, must not begin until the developer has received written notification of approval from the Local Planning Authority that the proposals will not have an adverse effect. This SPD will apply for those proposals that have a likely significant effect.
- 5.20** Appendix 2 sets out flow charts that summarise the process for both determining planning applications and for prior notification routes.

¹⁹ Sections 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended)



Additional residential accommodation not requiring a planning application

- 5.18** Certain developments covered by permitted development and prior approval processes (as set out in the General Permitted Development Order) do not require a planning permission issued by the Local Planning Authority to proceed. However, such developments would still be required to comply with the Habitats Regulations, with separate procedures in place.

¹⁸ In perpetuity is taken to be 80+ years.

6. Glossary

Habitats Regulations Assessment (HRA): This is based on a legal requirement (through the Conservation of Habitats and Species Regulations 2017, as amended). It included assessing the potential effects of land use plans and granting planning permissions on the conservation objectives of Natura 2000 sites, which are designated for their nature conservation importance. This includes Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Guidance also recommends considering the effects on Ramsar Sites.

Ramsar Sites: Wetlands of international importance, designated under the 1971 Ramsar Convention.

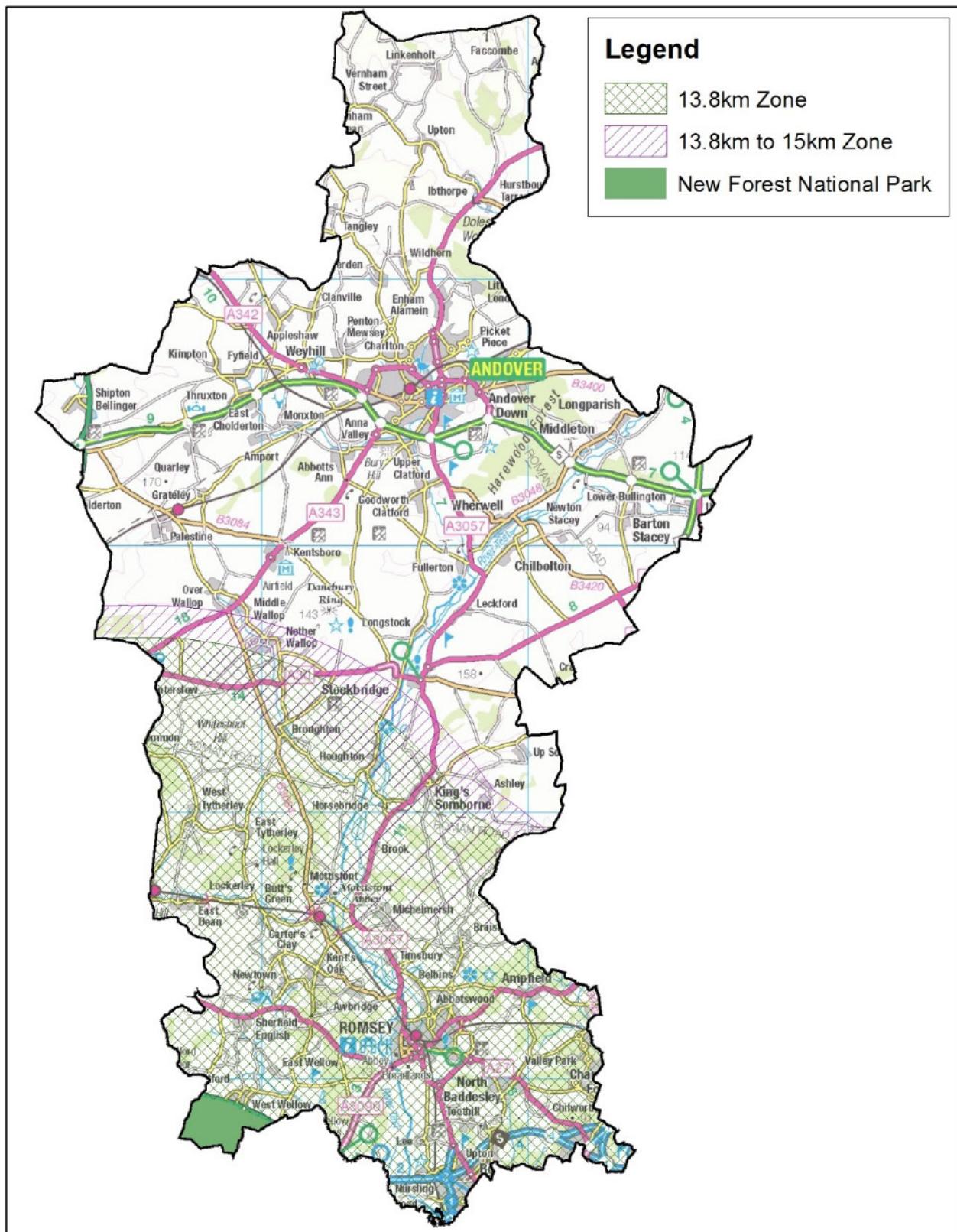
Section 106 Agreement: A legal agreement made under Section 106 of the Town and Country Planning Act 1990. It provides that if planning permission is granted and implemented, then payment or provision must be made in the form of a planning contribution. This can include the provision of land for a certain purpose or a financial contribution in lieu.

Special Areas of Conservation (SAC): Areas that have been identified as being of international importance for the habitats and species they support.

Special Protection Areas (SPA): Areas which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.



Appendix 1: Recreational Disturbance Mitigation Zone



New Forest SAC, SPA and Ramsar - Recreational Impact Mitigation Zone

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Zoomed in Maps of the Edge of Mitigation Zones

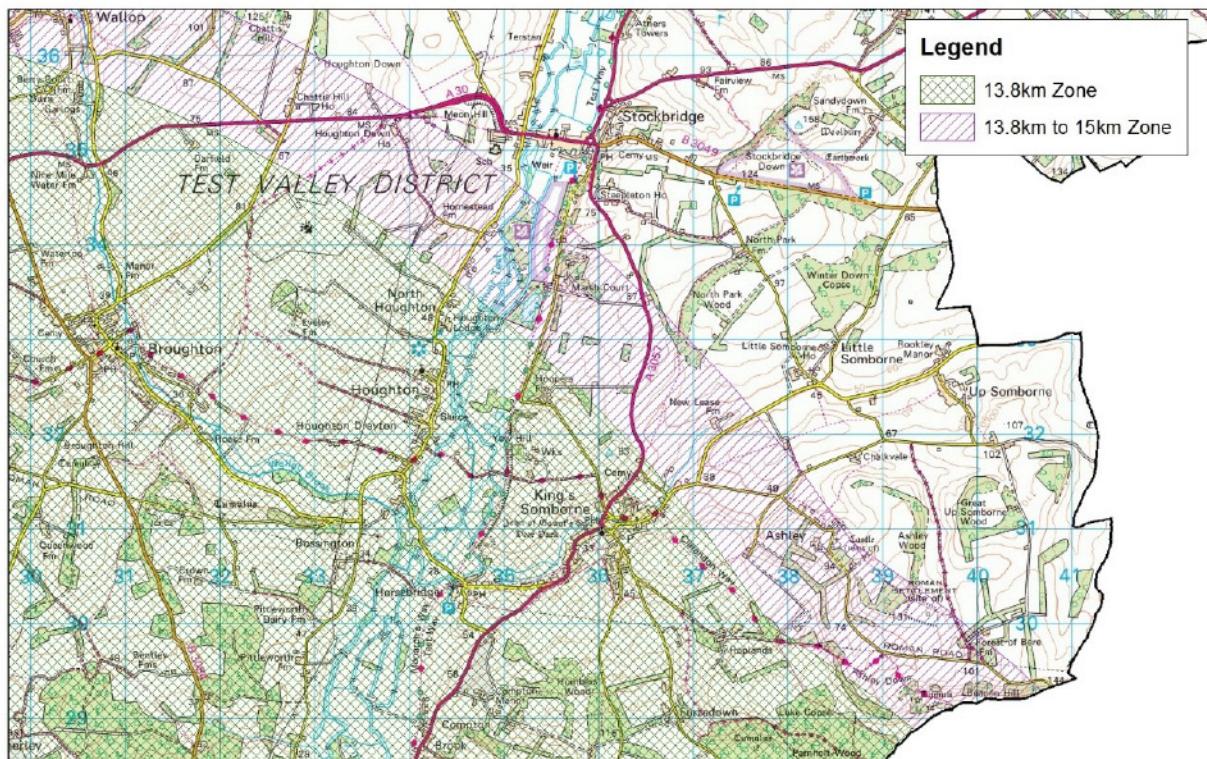
Map A



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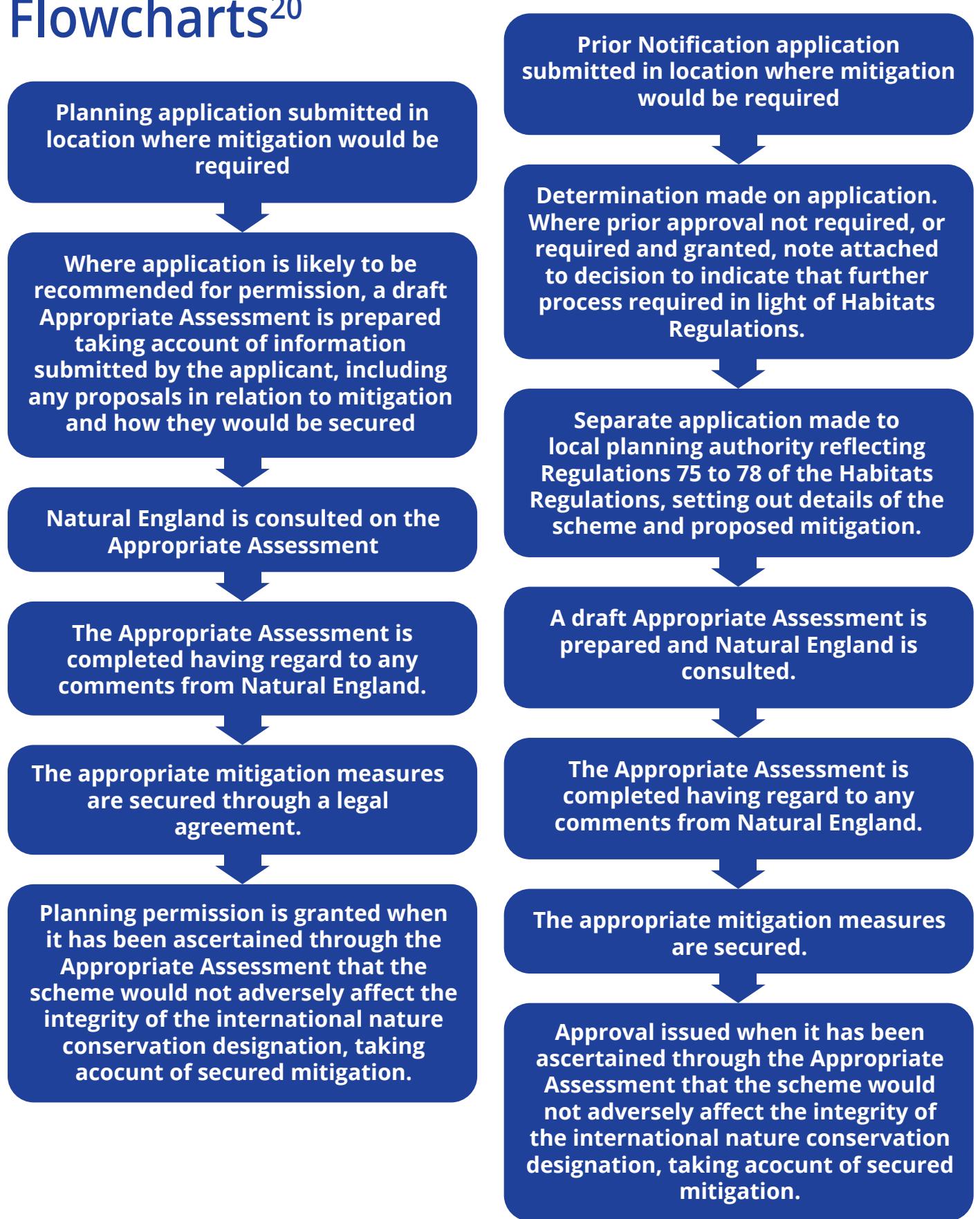
Map B



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Appendix 2: Decision Making Process and Habitats Regulations Assessment Flowcharts²⁰



²⁰ Please note that this is a simplification of the process to illustrate key steps, rather than a clear statement of the process that any application would follow in its determination.

